

REMARKS**I. Status**

The Office Action indicates claims 1-126 to be pending in this Application, with the Office Action indicating claims 13, 14, 20, 21, 26-28, 34, 35, and 37-126 to be withdrawn from consideration. With this response, claims 1, 7, and 33 are amended, and claim 30 is canceled without prejudice or disclaimer. No new matter has been added.

Claims 1-12, 15-19, 22-25, 29-33, and 36 are rejected under 35 U.S.C. 112, second paragraph.

Claims 1-12, 15-19, 22-25, 29, 32, 33, and 36 are rejected under 35 U.S.C. 101.

Claims 1-4, 7-12, 15-17, 19, 22, 23, 29, 30, 32, 33, and 36 are rejected under 35 U.S.C. 102(b) and under 35 U.S.C. 102(e) as being anticipated by Eggert (U.S. Patent No. 6,527,558).

Claims 1, 12, 19, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Kohl (Phil. Trans. R. Soc. Lond. A, 2000, Vol. 358, p. 579-610).

Claims 1, 2, 5-12, 15-19, 22-25, 29-33, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levine (U.S. Pub. No. 2004/0064298) in view of Robb (Computerized Medical Imaging and Graphics, 2000, Vol. 24, p. 133-151).

Claim 1 is independent.

II. Rejection under 35 U.S.C. 112

The Office Action rejects claims 1-12, 15-19, 22-25, 29-33, and 36 under 35 U.S.C. 112, second paragraph.

Turning to the Office Action's statement that:

“[c]laim 1 recites ‘wherein deducing takes into account the selected operational mode.’ It is unclear in what way deducing ‘takes into account’ the operational mode” (see Office Action p. 3),

the Applicant respectfully disagrees in view, for instance, of the disclosure of the present application stating that:

“[i]t is noted that, in various embodiments, one or more available operational modes simulating one or more abnormal states could be iteratively applied until a match was found and/or until all available operational modes simulating abnormal states had been employed without a match being found.

In the case where match was found, the user could, in various embodiments, be considered to be experiencing one or more abnormal conditions corresponding to one or more of the operational states (step 511). In various embodiments, in the case where all available operational modes simulating abnormal states had been tried without a match being found, recordation, indication, and/or the like could be made that no match had been found (steps 513, 515)”
(see disclosure of the present application p. 8).

Turning to the Office Action’s statement with respect to claim 1 that:

“[i]t is unclear whether applicant intends for said ‘user’ to be one who is operating a simulated organ (i.e. operator), or one who is having their condition ‘deduced’ (i.e. a patient)”
(see Office Action p. 4),

the Applicant respectfully notes that, with this response, claim 1 is amended. The Applicant respectfully submits that claim 1, at least as amended herewith, is clear with respect to the point indicated by the Office Action.

Turning to the Office Action’s statement with respect to claim 1 that:

“... it is unclear in what way operation mode selection relates to deducing a condition”
(see Office Action p. 4),

the Applicant respectfully disagrees in view, for instance, of the above-quoted of page 8 of the disclosure of the present application.

Turning to the Office Action's view that claim 4 is unclear in setting forth "like that of a reduced lead set electrocardiogram reading," the Applicant respectfully disagrees in view, for instance, of the disclosure of the present application stating that:

"[f]or instance, calibration of a personalized model could be performed such that output produced by the model is made to be like that of corresponding biological measurement data to be obtained from the user (e.g., via action of the user's node and/or a peripheral device thereof).

In, for example, the case where a personalized model is to create ECG-type output and a reduced lead set ECG reading (e.g., a two lead or three lead reading) is to be obtained from the user, calibration of the personalized model could, in various embodiments, be performed such that output of the model would be like that of a reduced lead set ECG reading (e.g., a two lead or three lead reading) ...

For example, in various embodiments in the calibration phase it may be possible to record 128 channels of ECG from the user and then tune a heart model to reproduce all those 128 ECG signals whereby, for instance, calibration could be done perhaps more reliably than by using a few leads only"

(see disclosure of the present application p. 4 - p. 5).

Turning to the Office Action's statement with respect to claim 5 that:

"[i]t is unclear in what way a simulated organ is simulated 'at a wireless node'"
(see Office Action p. 4),

the Applicant respectfully disagrees in view, for instance, of the disclosure of the present application stating that:

"[i]t is noted that, in various embodiments, recording, analysis, simulation, and/or the like is carried out totally and/or partially on the user's wireless node and/or other computer"
(see disclosure of the present application p. 9).

Turning to the Office Action's views regarding the clarity of claims 7 and 33, the Applicant respectfully submits that claims 7 and 33, at least as amended herewith, are in compliance with 35 U.S.C. 112.

Turning to the Office Action's statement that:

"[c]laims 11 and 17: It is unclear what limitation is intended by 'the simulated organ simulates the organ of the user ...'" (see Office Action p. 4),

the Applicant respectfully submits that claim 11 is clear at least when taken in view of claim 10 from which it depends:

"10. The method of claim 9, wherein the abnormal state relates to an organ of the user.

11. The method of claim 10, wherein the simulated organ simulates the organ of the user" (see claims 10 and 11; emphasis added).

Additionally, the Applicant respectfully submits that claim 17 is clear at least when taken in view of claim 16 from which it depends:

"16. The method of claim 15, wherein the normal state corresponds to an organ of the user.

17. The method of claim 16, wherein the simulated organ simulates the organ of the user" (see claims 16 and 17; emphasis added).

In view of at least the forgoing, the Applicant respectfully submits that claims 1-12, 15-19, 22-25, 29-33, and 36, at least with the amendments herewith, are in compliance with 35 U.S.C. 112, and respectfully requests that the rejection be withdrawn.

III. Rejection under 35 U.S.C. 101

The Office Action rejects claims 1-12, 15-19, 22-25, 29, 32, 33, and 36 under 35 U.S.C 101, the Office Action stating that:

“[t]his rejection could be overcome by amending the claims to recite a ‘tangible’ (i.e. real world result), as recited in claims 30 and 31”
(see Office Action p. 5).

With this response, the Applicant amends claim 1 in accordance with the Office Action’s suggestion.

In view of at least the foregoing, the Applicant respectfully requests that the rejection be withdrawn.

IV. Rejection of Independent Claim 1 under 35 U.S.C. 102 in View of Eggert

The Office Action rejects independent claim 1 under 35 U.S.C. 102(b) and 35 U.S.C. 102(e) as being anticipated by Eggert. However, the Applicant respectfully submits that Eggert fails, for example, to disclose, teach, or suggest:

“ ... obtaining biological measurement data of a user ...”

as set forth in claim 1 as amended herewith (emphasis added).

The Office Action apparently contends that Eggert teaches the use of a virtual instrument by a user via the Abstract and column 4 lines 35-45 of Eggert, and apparently contends that such is teaching of obtaining biological measurement data for a user.

However, the Applicant respectfully submits, for instance, that even if such is taken to be true for the sake of argument, the use of a virtual instrument by a user is not at all like “obtaining biological measurement data of a user” as set forth in claim 1 as amended herewith (emphasis added).

In view of at least the foregoing, the Applicant respectfully submits that claim 1 at least as amended herewith, as well as those claims that depend therefrom, are in condition for allowance over Eggert.

V. Rejection of Independent Claim 1 under 35 U.S.C. 102 in View of Kohl

The Office Action rejects independent claim 1 under 35 U.S.C. 102(b) as being anticipated by Kohl. However, the Applicant respectfully submits that Kohl fails, for example, to disclose, teach, or suggest:

“... obtaining biological measurement data of a user ...”

as set forth in claim 1 as amended herewith (emphasis added).

The Applicant respectfully observes, for instance, that cited page 597 section (e) of Kohl merely discusses that:

“[a]nalytical models of the heart are a reality. They are based on detailed descriptions of cardiac tissue architecture and anatomy, including the coronary vasculature”
(see Kohl p. 597 sect. (e); emphasis added),

while cited page 581 paragraph 2 merely discusses databased biological information:

“(i) the databasing of biological information (the ‘village touch’); and
(ii) the development of descriptive and, ultimately, analytical models of biological function (the ‘mountain view’)”
(see Kohl p. 581 para. 2; emphasis added).

In view of at least the foregoing, the Applicant respectfully submits that claim 1 at least as amended herewith, as well as those claims that depend therefrom, are in condition for allowance over Kohl.

VI. Rejection of Independent Claim 1 under 35 U.S.C. 103

The Office Action rejects independent claim 1 under 35 U.S.C. 103(a) as being unpatentable over Levine in view of Robb. However, the Applicant respectfully submits that

Levine and Robb, taken individually or in combination, fail, for example, to disclose, teach, or suggest:

“ ... obtaining biological measurement data of a user ...”

as set forth in claim 1 as amended herewith (emphasis added).

The Office Action apparently contends that Levine teaches obtaining generic history and operational parameters in generating a virtual patient for a student via paragraph [0078] of Levine, and apparently contends that such is teaching of obtaining biological measurement data for a user.

However, the Applicant respectfully submits, for instance, that even if such is taken to be true for the sake of argument, obtaining generic history and operational parameters in generating a virtual patient for a student is not at all like “obtaining biological measurement data of a user” as set forth in claim 1 as amended herewith (emphasis added).

In view of at least the foregoing, the Applicant respectfully submits that claim 1 at least as amended herewith, as well as those claims that depend therefrom, are in condition for allowance over Levine and Robb.

VII. Dependent Claim Rejections

The Applicant does not believe it is necessary at this time to further address the rejections of the dependent claims as the Applicant believes that the foregoing places the independent claims in condition for allowance. The Applicant, however, reserves the right to further address those rejections in the future should such a response be deemed necessary and appropriate.

(Continued on next page)

CONCLUSION

The Applicant respectfully submits that this Application is in condition for allowance for which action is earnestly solicited.

If a telephone conference would facilitate prosecution of this Application in any way, the Examiner is invited to contact the undersigned at the number provided.

AUTHORIZATION

The Commissioner is hereby authorized to charge any fees which may be required for this amendment, or credit any overpayment to Deposit Account No. 13-4500, Order No. 4208-4184.

Furthermore, in the event that an extension of time is required, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-noted Deposit Account and Order No.

Respectfully submitted,

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